

March 1, 2012

**VIA ELECTRONIC FILING**

Jocelyn Boyd, Chief Clerk / Administrator  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

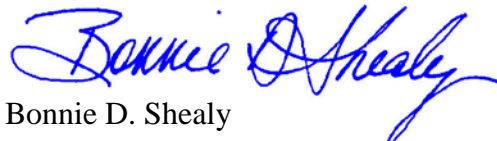
**Re: BHC Trucking v. Duke Energy Carolinas, LLC**  
**Docket No. 2011-482-E**

Dear Jocelyn:

Enclosed for filing on behalf of Duke Energy Carolinas in the above referenced docket please find the Company's Return to BHC Trucking's Petition for Reconsideration. By copy of this letter we are serving the Office of Regulatory Staff and other parties of record in this proceeding with the same. If you have any questions, please contact me.

Very truly yours,

ROBINSON, MCFADDEN & MOORE, P.C.

  
Bonnie D. Shealy

BDS/tch  
Enclosures

cc/enc: Hearing Examiner Randall Dong (via email)  
John R. McCravy, III, Esquire (via email & U.S. Mail)  
Shannon Bowyer Hudson, ORS Attorney (via email & U.S. Mail)  
Alex Castle, Esquire (via email)  
Barbara Yarbrough (via email)

**Bonnie D. Shealy**  
1901 MAIN STREET, SUITE 1200  
POST OFFICE BOX 944  
COLUMBIA, SOUTH CAROLINA 29202  
**PH**  
(803) 779-8900 | (803) 227-1102 *direct*  
**FAX**  
(803) 252-0724 | (803) 744-1551 *direct*  
bshealy@robinsonlaw.com

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

**Docket No. 2011-482-E**

<b>IN RE:</b>	)	
	)	
<b>BHC Trucking,</b>	)	
<b>Complainant,</b>	)	<b>DUKE ENERGY CAROLINAS, LLC'S</b>
	)	<b>RETURN TO BHC TRUCKING'S</b>
<b>v.</b>	)	<b>PETITION FOR RECONSIDERATION</b>
	)	
<b>Duke Energy Carolinas, LLC,</b>	)	
<b>Respondent.</b>	)	
_____	)	

Duke Energy Carolinas, LLC (“Duke Energy Carolinas” or the “Company”) respectfully submits this Return to BHC Trucking’s Petition for Reconsideration of Order No. 2012-123 of the Public Service Commission of South Carolina (“Commission”) in the above-referenced docket. Duke Energy Carolinas requests that the Commission deny this Petition for Reconsideration (“Petition”) and submits the following in support of its position.

1. BHC Trucking’s Petition is without merit since it contains no new arguments that have not already been presented to and ruled upon by this Commission in Order No. 2012-123. As noted in Order No. 2012-123, BHC Trucking’s only justification for its position is that it stated in its initial complaint that since the meter was replaced it must be faulty. BHC Trucking simply restates the same argument in this Petition. BHC Trucking has offered no evidence to support the assertions in its complaint or to rebut the verified testimony of Duke Energy witness Barbara Yarbrough or the Office of Regulatory Staff witness April Sharp, the sworn affidavits, or the business records submitted showing the calibration test results.<sup>1</sup> The Petition rests on mere

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<sup>1</sup> “Under Rule 56, SCRPC, when a party makes a motion for summary judgment and supports it by affidavits the adverse party may not rest on the allegations of his pleadings but must respond by affidavits or other evidence demonstrating a genuine issue of material fact.” *Klippel v. Mid-Carolina Oil, Inc.*, 303 S.C. 127, 399 S.E.2d 163, 164 (Ct. App. 1990).

allegations and conclusory statements.

2. BHC Trucking's Petition also mischaracterizes the regulation at issue in this complaint by ignoring its plain language. The section of the regulation BHC Trucking argues should be applied, 26 S.C. Regs. 103-340(1), refers to "Fast or Slow Meters," not a "malfunctioning" meter as alleged by BHC Trucking. The regulation provides

- (1) ***Fast or Slow Meters.*** If the overcharge or undercharge is the result of a ***fast or slow meter***, then the method of compensation shall be as follows:
  - a. In case of a disputed account, involving the accuracy of a meter, such meter shall be tested upon request of the customer, as specified in 103-370(2).
  - b. In the event that the meter so tested is found to have an error in registration of more than two (2) per cent, the bills will be increased or decreased accordingly, but in no case shall such a correction be made for more than sixty days.

The BHC Trucking meter was tested and there was not an error in registration of more than two percent. BHC Trucking's Petition continues to ignore that the fact that the meter was tested and found to be properly calibrated, i.e., not "fast or slow." As a result, section (1) of the regulation did not apply. BHC Trucking has failed to provide any support or evidence for its allegation that the meter was running slow.

3. BHC Trucking's statement that the "malfunctioning transmitter and meter are one unit" so Reg 103-340(6) should not be applied is also without merit. The distinction as to whether the transmitter and meter are one unit or two separate units is irrelevant to the situation. Section 6 provides as follows

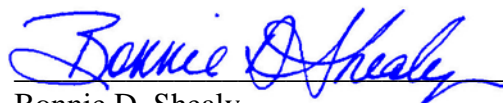
- (6) Customer Undercharged Due to Human or Machine Error. If the electrical utility has undercharged any customer as a result of a misapplied schedule, ***an error in reading the meter***, a skipped meter reading, ***or any human or machine error***, except as provided in 1, 2 and 4 of this rule then the electrical utility may recover the deficient amount...

26 S.C. Regs. 103-340(6). The issue was not whether the transmitter and meter is one unit, the issue was whether the meter was properly calibrated or whether there was a human or machine error that resulted in the undercharge.

WHEREFORE, for the reasons stated above, Duke Energy Carolinas respectfully requests that the Commission deny BHC Trucking's Petition for Reconsideration of Order No. 2012-123 in this matter.

Dated this 1<sup>st</sup> day of March, 2012.

Robinson, McFadden & Moore, P.C.



Bonnie D. Shealy  
1901 Main Street, Suite 1200  
Post Office Box 944  
Columbia, South Carolina 29202  
Phone: 803-779-8900  
Fax: 803-252-0724  
Email: bshealy@robinsonlaw.com

Attorney for Duke Energy Carolinas, LLC

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2011-482-E**

**In Re:**

**BHC Trucking,  
Complainant,**

**v.**

**Duke Energy Carolinas, LLC  
Respondent.**

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**CERTIFICATE OF SERVICE**

This is to certify that I, Toni C. Hawkins, a Paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Duke Energy Carolinas, LLC's Return to BHC Trucking's Petition for Reconsideration** in the foregoing matter by causing a copy of same to be delivered as follows:

John R. McCravy, III, Esquire  
McCravy, Newlon & Sturkie Law Firm, P.A.  
1629 Bypass 72 NW  
Greenwood, SC 29649

Shannon Bowyer Hudson, Counsel  
SC Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

Dated at Columbia, South Carolina this 1<sup>st</sup> day of March, 2012.



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Toni C. Hawkins